



UNITED STATES PATENT AND TRADEMARK OFFICE

cle

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/939,161

08/24/2001

Richard W. Voellmy

4118

7590

06/01/2006

Richard W. Voellmy
hsf pharmaceutical s.a.
avenue des cerisiers 39b
pully, 1009
SWITZERLAND

EXAMINER

OH, SIMON J

ART UNIT

PAPER NUMBER

1618

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Papers Received

Receipt is acknowledged of the applicant's amendment, response, and petition for extension of time, all received on 09 March 2006.

Claim Rejections - 35 USC § 101 and 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of Claims 26-33 under 35 U.S.C. 101 is maintained.

The rejection of Claims 26-33 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement is maintained

Response to Arguments

Applicant's arguments filed 09 March 2006 have been fully considered but they are not considered persuasive.

The examiner interprets the use of the transitional phrase "consisting of" to mean that the instantly claimed invention has only a single step, which is the heat treatment to a patient. The claims do not specifically contain any further method steps related to the actual administration of a chemotherapeutic agent. Recitations in the instant claims regarding chemotherapy are phrased only in terms of a future intended use. As such, the examiner does not give such phrases patentable weight. The instantly claimed treatment, as defined by the applicant, would only then

Art Unit: 1618

be considered useful when there is also the additional step of the administration of a chemotherapeutic agent, which should be included in the instant claims. The currently defined invention having the single step of a heat treatment to the scalp of skin of a subject cannot therefore be found patentable according to the rejections under 35 U.S.C. § 101 and § 112, as previously set forth. The claims will remain rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon J. Oh whose telephone number is (571) 272-0599. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

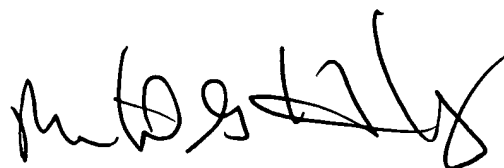
Art Unit: 1618

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Simon J. Oh
Examiner
Art Unit 1618

sj0

A handwritten signature in black ink, appearing to read 'm. hartley', with a stylized flourish at the end.

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER